

Then there is the question of the extent to which the military, during this period, came to dominate the diplomats? What do the Pentagon Papers show in that respect? It does appear that the military was dominating the diplomats during this period.

I think we really ought to explore all these questions. Perhaps, Dr. Ellsberg, you might address yourself to the question of whether or not there is any hope of building checks into the system

ELLSBERG: I wouldn't put <sup>my trust</sup> in a lot of checks, ~~provided that~~ <sup>on hopes that the Executive</sup> ~~these~~ within the Executive branch will always remain responsive to the President's desires and the desires of Congress. <sup>Congress has to use its power to assert its own</sup> I have come <sup>role,</sup> to appreciate, in the last couple of months more than ever before, the wisdom of the signers of the Constitution in providing for parallel responsibilities and for some independence in various branches of government.

People ask whether, after all, people in the Executive are the only ones who can be corrupted by power or shirk responsibility. Obviously not. We are talking about a generation of behavior, very similar behavior by a large number of people and that, in itself, almost proves that it is not the character of any one person that is to be judged by the performance of a system, nor is it the kind of people that go into the Executive branch.

Such people as Nixon, Melvin Laird, Johnson, Truman and Kennedy all came from Congress. In fact, I saw in the papers that Richard Nixon protested strongly the holding by Truman of certain documents at that period.

These same people could have been relied on 20 years ago,

a little earlier in the cold war at least, to have opposed the kind of behavior that the Executive is foreseeably showing right now.

*(will to provide a check on the Executive)*

In other words, I think one has to address Congress <sup>as</sup> ~~in its~~ ~~relation to the Executive~~, <sup>the same</sup> ~~as it~~ applies to the courts. But we are in the halls of Congress now and let's take it from there. Congress has, in effect, signed over its responsibilities under the Constitution <sup>in the field of war and foreign policy,</sup> for over 25 years, and I think you are exactly right as I heard you attribute it to the legacy of World War II.

The definition of the situation we are in as a cold war had very fateful consequences to the functioning of our constitutional system and our democracy. That is one of the <sup>perceptions</sup> ~~possessions~~ that all of these people share.

They had learned very vividly in the four years of our participation in World War II that our affairs in the world were to be conducted by the President. Congress virtually went to sleep. The courts abjured responsibility.

Citizens and Congress together were to accept measures of censorship, in effect, the concealing of information. To define the situation and encourage the analogy of the World War II struggle for survival against the powerful opponent seems to answer all these questions as to whether the Executive had the right to take over all this responsibility.

In a way, ~~the position that~~ I think Congress has to start ~~with is to~~ make the mental and emotional effort to escape from



the powers of these metaphors and analogies from World War II, from the experiences that shaped people like Richard Nixon, who was a junior officer in World War II, like so many others who see the world in those terms, <sup>Congress must help us</sup> and come back to peace, and tell the people of this country it is within our power to bring about peace <sup>our relationship to the rest of</sup> in the world.

It is not within our power to end all violence <sup>in the world,</sup> but it is in our power to leave behind us the wartime distribution of power which puts all the responsibility and all power in the Executive.

ECKHARDT: I have a question I would like to ask Dr. Ellsberg. We have been discussing this question of information available to the people and <sup>to</sup> Congress. Of course, assuming, as I do, once information is available to the press there should be almost no restraint.

Nevertheless, there is the other question as to what extent the Executive should retain material privately and for what period of time. In other words, I think there is a difference between the cat in the bag and the cat out of the bag.

I don't think many of us would say that we must know currently and absolutely and immediately the details of <sup>conduct of</sup> foreign relations. Yet I think we would also agree that the retention of materials, particularly materials of the nature of which are more policy-making than details of matters on defense, should never have been held as long as the Pentagon Papers.

Is there some guideline as to where we should draw those